

to the head portion between an unlocked position and a locked position through a 90° arc to secure the position of the head portion relative to the spinal rod; and

c) a fastener portion depending from the head portion and configured to engage the spine.--

### **REMARKS**

Early and favorable consideration of the above-identified application in view of the preceding amendments and the following remarks is respectfully requested.

Claims 1-68 were initially pending in the parent of the subject application, namely U.S. Appln. Serial No. 09/487,942. During the prosecution of the '942 application, in an Office Action dated March 27, 2001, the claims were subject to an initial election requirement. In response thereto, Claims 1-4, 9-18, 20-24, 26 and 32-68 were elected for prosecution on the merits. Also in response to the Office Action, Claims 1, 11, 15 and 16 were amended to place them in condition for allowance. In a subsequent Office Action dated October 10, 2001, a second election requirement was set forth and Claims 1-40 were allowed. In response, to the Office Action, Claims 41-68 were elected for prosecution on the merits, while allowed Claims 1-40 were cancelled without prejudice as being directed to non-elected subject matter.

By way of this preliminary amendment, original Claims 41-68 have been cancelled without prejudice so that only Claims 1-40 are pending in this application. Also, Claims 1, 11, 15 and 16 have been amended from their original form so that they are now in the condition in which they were previously allowed during the prosecution of the '942 application..

Accordingly, allowance of the subject application is earnestly solicited.

Date :

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